

RICHARD J. HAYES, JR.

ATTORNEY AT LAW

13809 BLACK MEADOW ROAD

GREENWOOD PLANTATION

SPOTSYLVANIA, VIRGINIA 22553

PRACTICE LIMITED TO MATTERS BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

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TELEPHONE (703) 972-7941

August 13, 1993

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AUG 16 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Mr. William F. Caton, Acting Secretary
The Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

RE: Petition to Amend the FM Table of Allotments (73.202(b))
North Jefferson Broadcasting Company, Inc., Petitioner
Warrior, Alabama

Dear Mr. Caton:

Transmitted herewith, on behalf of North Jefferson Broadcasting Company, Inc., are an original and six copies of the "Petition to Amend the FM Table of Allotments."

North Jefferson Broadcasting Company, Inc., licensee of Radio Station WLBI(FM), Warrior, Alabama, requests FCC consideration of the allotment of Channel 254C3 to Warrior, Alabama as an upgrade to its existing Class "A" service. Such an upgrade would provide that community's first, local wide-area FM service. North Jefferson Broadcasting Company, Inc. will apply for the new channel, if allotted, and if awarded the construction permit, will promptly apply for the facility.

Should any questions arise regarding this matter, please communicate with the undersigned directly.

Respectfully submitted,

By: *R. Hayes*
Richard J. Hayes, Jr., Esq.
Counsel to North Jefferson
Broadcasting Company, Inc.

RJH:lss
Enclosures

No. of Copies rec'd
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AUG 16 1993

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In The Matter of)	
)	
Amendment of Section 73.202(b))	
Table of Allotments)	BC Docket No. _____
FM Broadcast Stations)	FM No. _____
Warrior, Alabama)	

TO: Chief, Allocations Branch

PETITION FOR RULE MAKING

Comes now, North Jefferson Broadcasting Company, Inc, through counsel, and pursuant to the provisions of Section 1.401 and Section 1.420 of the Commission's Rules (47 C.F.R. 1.401, 1.420), requesting that the Table of Allotments in Section 73.202(b) of the Federal Communications Commission's Rules and Regulations be amended.

North Jefferson Broadcasting Company, Inc. is the licensee of Radio Station WLBI(FM), Warrior, Alabama. WLBI(FM) currently operates on Channel 254A. North Jefferson Broadcasting Company, Inc. seeks an upgrade from Channel 254A to Channel 254C3 in order to provide Warrior, Alabama with its first, local, wide-area FM service.

Prior to the submission of this Petition for Rule Making, North Jefferson Broadcasting Company, Inc. and Radio South, Inc. entered into a Settlement Agreement which provided for the dismissal, with prejudice of the Petition for Reconsideration submitted by Radio South, Inc. in MM

Docket No. 90-476. Radio South, Inc. had requested a modification of the license for its Cordova, Alabama FM station, WFFN, to change from Channel 237A to Channel 254C3. While the Petition for Reconsideration was pending, WLBI-FM, Warrior, Alabama was prevented from submitting its request for an upgraded facility on Channel 254C3. Now that the Radio South, Inc. Petition for Reconsideration has been dismissed, with prejudice, there is no impediment to the request of North Jefferson Broadcasting Co., Inc. for an upgrade on Channel 254C3.

North Jefferson Broadcasting Company, Inc. hereby requests that the FM Table of Allotments of Section 73.202(b) be amended to include Channel 254C3 instead of Channel 254A for the community of Warrior, Alabama, as follows:

Location	Present	Proposed
Warrior, Alabama	254A	254C3

There are compelling, public interest justifications for granting this rule making, and in support thereof, the following is shown:

I. PRELIMINARY STATEMENT

A. First, Local, Wide-Area FM Service

The purpose of this request is to provide a much needed, wide-area FM service to the community of Warrior, Alabama. The Petitioner proposes that the Commission amend the FM Table of Allotments to allot Channel 254C3 to Warrior, Alabama in lieu of its presently allotted Channel 254A and to modify the license of Radio Station WLBI(FM), accordingly.

B. Efficient Utilization of FM Spectrum

Such an amendment of the FM Table of Allotments would further the Commission's goal of providing a more efficient use of the FM Spectrum by upgrading Radio Station WLBI from Channel 254A to Channel 254C3. Such an upgrade would provide Warrior, Alabama with its first, local, wide-area FM service. The Amendment of Section 73.202(b) of the Commission's rules to include Channel 254C3 in lieu of Channel 254A at Warrior, Alabama would provide coverage to a substantial area and population. At present, Radio Station WLBI(FM), as a Class "A" facility, provides local broadcast service to 2,498 square kilometers and serves 218,580 persons, according to the 1990 U.S. Census. As a Class "C3" facility, WLBI(FM) would provide substantially improved service to 4,697 square kilometers. The upgraded FM facility at Warrior, Alabama would provide wide-area FM service to 347,766 persons.

Based upon these calculations, the proposed Class "C3" facility at Warrior, Alabama would increase the area served by 88% and the population served by 59%.

Certainly, Warrior, Alabama is a sizeable and growing community and the citizens of Warrior, as well as those citizens in the predicted 1 m/Vm contour of the proposed facility would benefit from a full-time, regional broadcast service. No other person or community has expressed any interest in this channel at Warrior, Alabama.

II. ENGINEERING CONSIDERATIONS

A. Substantial Area to Receive Additional Service

Petitioner's engineering exhibit, as attached, provides an analysis of a complete search of the FM band. That study concludes that Channel 254C3 would provide city-grade coverage to Warrior, Alabama. Channel 254C3 could be allotted, consistent with the mileage separation and city-grade service requirements of the Commission's rules. The consideration of all factors shows that this proposal can be accommodated and that Channel 254C3 can be added to the FM Table of Allotments at Warrior, Alabama without jeopardizing any other community or facility. No change in channels is required at any other facility in any other community and, no community would lose any present or potential service and a substantial area of service would be added if this proposed allocation is granted.

III. WARRIOR, ALABAMA IS A GROWING COMMUNITY

Between 1980 and 1990, Warrior, Alabama has enjoyed substantial growth in population. A brief review of the statistics regarding the growth of Warrior, Alabama are provided as Exhibit No. 1 to this "Petition for Rule Making." Clearly, after a review of this exhibit, it cannot be disputed that Warrior, Alabama needs a wide-area, regional broadcast service.

IV. PETITIONER'S INTENTION TO APPLY FOR CHANNEL 254C3

If these proposed changes are implemented by the Commission, the Petitioner intends, pursuant to the rules of the Commission, to file an application for a construction permit, and if awarded the permit, to promptly construct the facility. Financially, the Petitioner is more than qualified to construct and operate the facility sought.

V. SUMMARY

No community will lose any present or proposed service as a result of a grant of this "Petition for Rule Making" and, furthermore, a substantial new area of service will be added. As indicated above, a grant of this "Petition" will provide a much needed, regional broadcasting service to Warrior, Alabama. This "Petition" would, if granted, provide for an efficient utilization of broadcast resources. Furthermore, this "Petition" furthers the Commission's stated policy of encouraging existing

broadcasters to upgrade their facilities in order to better serve the needs and interests of their community of license.

Therefore, in view of the foregoing facts, Petitioner hereby requests that the FM Table of Allotments (Section 73.202(b)) be amended to allot FM Channel 254C3 to Warrior, Alabama in lieu of Channel 254A and to modify the license of Radio Station WLBI(FM), Warrior, Alabama, accordingly. The upgrade of Radio Station WLBI(FM) can be accomplished without having to relocate any other facility. Pursuant to Section 1.420(g) of the Commission's rules, it is understood that no competing expressions of interest will be entertained by the Federal Communications Commission as the upgrade sought by Radio Station WLBI(FM), Warrior, Alabama is for the same channel on which it currently operates.

Respectfully submitted,

NORTH JEFFERSON BROADCASTING COMPANY, INC.

By: R. Hayes

Richard J. Hayes, Jr., Esquire
Its Attorney

Date: August 13, 1993

Richard J. Hayes, Jr., Esq.
13809 Black Meadow Road
Spotsylvania, Virginia 22553
(703) 972-2690

EXHIBIT "A"

**NORTH JEFFERSON BROADCASTING COMPANY, INC.
PETITION TO AMEND FM TABLE OF ALLOTMENTS
WARRIOR, ALABAMA**

GROWTH AND ECONOMIC DATA

EXHIBIT "A"

**NORTH JEFFERSON BROADCASTING COMPANY, INC.
PETITION TO AMEND FM TABLE OF ALLOTMENTS
WARRIOR, ALABAMA**

GROWTH AND ECONOMIC DATA

The Warrior, Alabama area has enjoyed tremendous growth over the past ten (10) years and projections for growth through the year 2010 clearly demonstrate that the needs and interests of Warrior, Alabama can be best served through the allocation of a wide-area broadcast facility. At present, WLBI(FM), licensed to North Jefferson Broadcasting Company, Inc. operated on Channel 254A. In this "Petition to Amend the FM Table of Allotments," WLBI(FM) seeks to upgrade to Class "C3" status on Channel 254.

The economic and population growth in the Warrior, Alabama area to justify the modification of the license of WLBI(FM) from Class "A" to Class "C3," is as follows:

POPULATION ¹

The Warrior area population between 1980 through 1990 has increased by 5%. Between 1990 and 2010, the population of the area is expected to increase by 25%. These projections take into account the planned split of the interstate highway from Birmingham, Alabama to Memphis, Tennessee. Furthermore, the projected population figures include the effects of the planned Northern Beltway around Birmingham, Alabama.

Between 1980 and 1990, the number of households in the Warrior area grew by 14%. Between 1990 and 2010, the number of households should increase by 35%.

Employment between 1980 and 1990 has increased by 9% in the Warrior area and employment is projected to increase by 30% between 1990 and 2010.

Household income between 1980 and 1990 jumped by 83%! Between 1990 and 2010, growth of 20% is projected.

By all estimates, Warrior is a thriving area. Its history has been one of growth and its future is conservatively projected to enjoy considerable, additional growth.

Clearly, the Warrior area needs a first, wide-service area FM station and WLBI respectfully requests that its facility be upgraded from Class "A" status to Class "C3" status.

¹1980 and 1990 U.S. Census data. Socioeconomic data, estimates and projections by the Regional Planning Commission, September 1980. Socioeconomic data for counties in the Birmingham Region by the Birmingham Regional Planning, July, 1991.



OWL ENGINEERING, INC.

CONSULTING COMMUNICATIONS ENGINEERS

**1306 W. County Road F, St. Paul, MN 55112
(612) 631-1338 • Fax (612) 631-3502**

**ENGINEERING STATEMENT ON BEHALF OF
NORTH JEFFERSON BROADCASTING COMPANY, INC.
IN SUPPORT OF A PETITION TO AMEND
THE FM TABLE OF ALLOTMENTS
CHANNEL 254C3 TO WARRIOR, ALABAMA**

July 27, 1993

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Owl Engineering, Inc. has been retained by North Jefferson Broadcasting Company, Inc. (hereafter North) to prepare this Engineering Statement in support of a petition to amend the FM Table of Allotments, FCC Rules Section 73.202(b) as follows:

<u>Location</u>	<u>Present</u>	<u>Proposed</u>
Warrior, AL	254A	254C3

The reference coordinates used for this study are:

33 53' 04" North Latitude
86 52' 01" West Longitude

A full class C3 facility operating from the proposed site coordinates will provide 60 dBu (1 mV/m) signal coverage to the population encompassed by an area of approximately 4,697 square kilometers. Warrior has a population of 3,280 based on 1990 U.S. Census data.

North has filed an application for license for channel 254A to cover construction permit BPH-891214MJ.



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The proposal of North was evaluated to determine if the proposed site coordinates would meet FCC spacing requirements. That analysis is attached as Engineering Exhibit E-1. As can be seen from exhibit E-1, North's proposal meets all FCC spacing requirements set forth in section 73.207 of the FCC Rules. The reference coordinates proposed by North represent a 9.4 kilometer site restriction to the north west. There is approximately 45 square kilometers in which to select a suitable transmitter site. Engineering Exhibit E-2 shows the available area to locate a transmitter site and meet FCC spacing requirements.

The proposal of North was evaluated to determine if the proposed site would meet FCC signal coverage requirements. The distance from the reference coordinates to the city of Warrior is 9.4 kilometers at a bearing 145.8 degrees. The three to sixteen kilometer average terrain was computed using the NGDC data base and the distance to contours was computed using the FCC F(50,50) metric curves. The distance to the 70 dBu contour along the radial through the principle city was calculated to be 23.5 kilometers, surpassing the city by some 14 kilometers. Engineering Exhibit E-3 shows the 70 dBu contour plotted and demonstrates that the entire city of Warrior is served by a signal strength of 70 dBu or greater. Clearly, the proposal of North meets the requirements of FCC Rules section 73.315.



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A comparison of the area/population served by the 60 dBu coverage contour of the higher class channel to the present class A facilities was completed. Utilizing the reference Height Above Average Terrain (HAAT) and Effective Radiated Power (ERP) for each class of station, the following data was calculated:

Station Class	Area Served km²	Population Served (1990 Census)
C3	4,697	347,766
A	2,498	218,580

Based on the above calculations, it can be determined that the proposed class C3 facilities will increase the area served by 88 percent and the population served by 59 percent.



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THE FM TABLE OF ALLOTMENTS
CHANNEL 254C3 TO WARRIOR, ALABAMA**

Based on the engineering studies provided, the following conclusions can be obtained:

- 1. The proposal will provide Warrior with a full time regional broadcast service.**
- 2. The proposal will meet the requirements of FCC Rules Section 73.315.**
- 3. The proposal will meet the requirements of FCC Rules Section 73.207.**
- 4. The proposal will increase the area served by 88 percent.**
- 5. The proposal will increase the population served by 59 percent.**



CONSULTING COMMUNICATIONS ENGINEERS

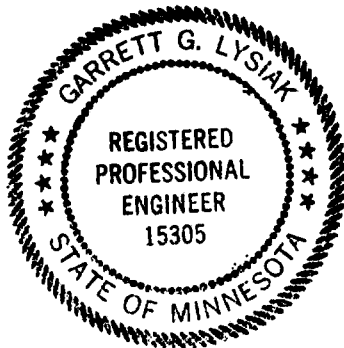
1306 W. County Road F, St. Paul, MN 55112
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IN SUPPORT OF A PETITION TO AMEND
THE FM TABLE OF ALLOTMENTS
CHANNEL 254C3 TO WARRIOR, ALABAMA**

AFFIDAVIT

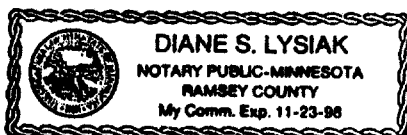
RAMSEY COUNTY)
)
STATE OF MINNESOTA) ss:

Garrett G. Lysiak, being first duly sworn, says that he is president of Owl Engineering, Inc., consulting communications engineers with offices in Arden Hills, Minnesota; that his qualifications as an expert in communications engineering are a matter of record with the Federal Communications Commission; that the foregoing exhibit was prepared by him and under his direction; and that the statements contained therein are true of his own personal knowledge except those stated to information and belief and, as to those statements, verily believes them to be true and correct.



Garrett G. Lysiak
Garrett G. Lysiak, P.E.

Subscribed and sworn to before me this date July 27, 1993



Diane S. Lysiak
Diane S. Lysiak
Notary Public

My commission expires November 23, 1993



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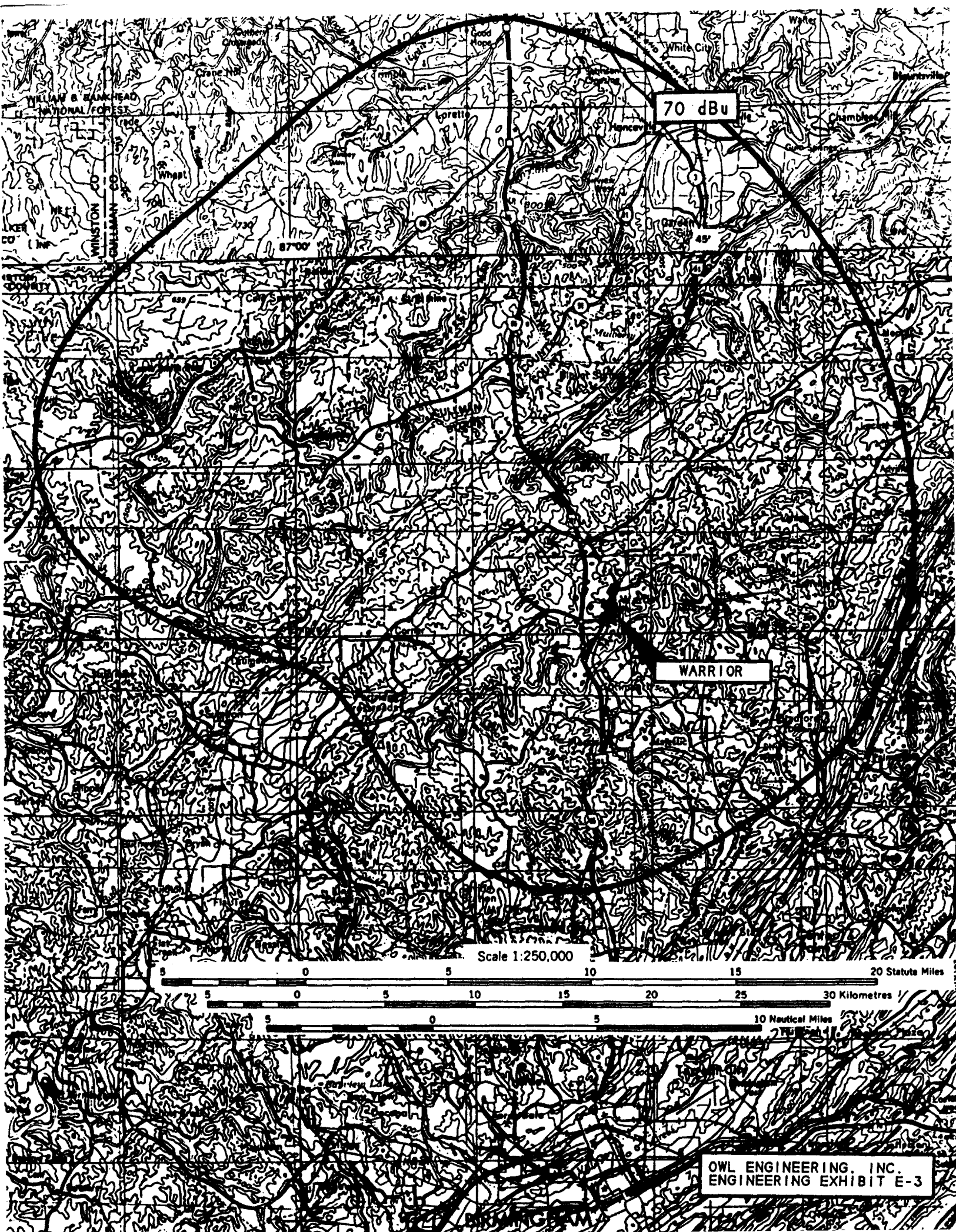
**ENGINEERING EXHIBIT E-1
NORTH JEFFERSON BROADCASTING COMPANY, INC.
IN SUPPORT OF A PETITION TO AMEND
THE FM TABLE OF ALLOTMENTS
CHANNEL 254C3 TO WARRIOR, ALABAMA**

FM Channel 254-C3

LATITUDE: 33° 53' 4"
LONGITUDE: 86° 52' 1"

CHNL	Call	City	Class	Calculated Km.	Required Km.	Clear- ance	Bearing °
201	NO CONFLICT						
251	WTXT	FMAL Fayette	C1	104.88	76	28.88	233.58
251		FAAL Fayette	C1	104.88	76	28.88	233.58
252	NO CONFLICT						
253		FAMS Tupelo	C	175.92	176	-0.08	285.87
253	WZLQ	FMMS Tupelo	C1	175.92	144	31.92	285.87
253	WZLQ	FMMS Tupelo	C	194.57	176	18.57	287.66
254	WFFN	FRAL Cordova	A	30.88	142	-111.12	245.97*
254	WFFN	FRAL Cordova	C3	27.03	153	-125.97	243.87*
255	WBAMFM	FMAL Montgomery	C	175.79	176	-0.21	159.07
255		FAAL Montgomery	C	175.79	176	-0.21	159.07
256	WAHR	FMAL Huntsville	C	103.47	96	7.47	11.53
256		FAAL Huntsville	C	103.47	96	7.47	11.53
257	NO CONFLICT						

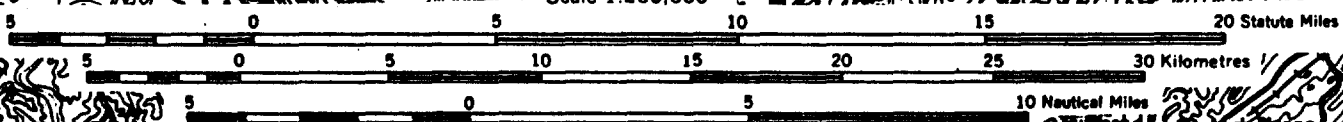
* The proposal of WFFN to allot channel 254 to Cordova, AL was dismissed.



70 dBu

WARRIOR

Scale 1:250,000



OWL ENGINEERING, INC.
ENGINEERING EXHIBIT E-3

MINGHAM

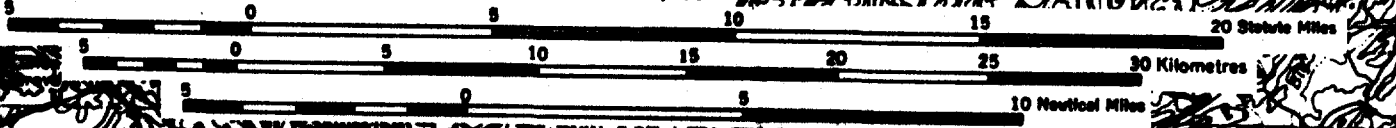
50 GULLMAN 10 MI. GULLMAN 10 MI. GARDEN CITY 1 MI. BLOUNTVILLE 7 MI. 51 52 53 54 55



AREA TO LOCATE FOR
CHANNEL 254C3
WARRIOR, AL

WARRIOR

Scale 1:250,000



OWL ENGINEERING, INC
ENGINEERING EXHIBIT E-2

In the Matter of:

Amendment of Section 73.202(b))	
Table of Allotments)	MM Docket No. _____
FM Broadcast Stations)	FM No. _____
Warrior, Alabama)	

NOTICE OF PROPOSED RULE MAKING

Adopted:

Released:

By the Chief, Policy and Rules Division:

1. The Commission has before it for consideration the petition for rule making submitted by North Jefferson Broadcasting Company, Inc. requesting the substitution of FM Channel 254C3 for Channel 254A at Warrior, Alabama and modification of its license for Radio Station WLBI(FM), Warrior, Alabama for the new facility to specify operation on the higher powered channel.

2. Channel 254C3 can be allotted to Warrior, Alabama in compliance with the Commission's minimum distance separation requirements if the transmitter site is located at North Latitude, 33-53-04, West Longitude 86-52-01, as evidenced in the attached engineering statement. Petitioner states that the public would benefit from the substitution of channels as it could provide Warrior with its first wide coverage area aural service.

3. In accordance with Commission policy, we shall propose to modify the construction permit of the new Warrior FM facility to specify operation on the new channel. However, pursuant to Section 1.420(g) of the Commission's Rules, competing expressions of interest for Channel 254C3 will not be accepted.

4. In order to effectuate these proposals, the Commission proposes to amend the Table of Allotments, Section 73.202(b) of the Commission's Rules with respect to the following communities:

	Present	Proposed
Warrior, Alabama	254A	254C3

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing by reference herein.
NOTE: A showing of continuing interest is required by paragraph 2 of the appendix before a channel will be assigned.

6. Interested parties may file comments on or before _____, and reply comments on or before _____, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, as follows:

Richard J. Hayes, Jr., Esquire
13809 Black Meadow Road
Spotsylvania, Virginia 22553
Counsel to North Jefferson Broadcasting Company, Inc.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, Section 73.202(b), of the Commission's Rules. see, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 Fed. Reg. 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact _____, Mass Media Bureau (telephone) (202) _____. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An ex parte contact is a message (spoken or written) officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an ex parte presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an ex parte presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Chief, Policy and Rules Division
Mass Media Bureau

Attachment: Appendix

_____, 1993